
Committee Report

REGULAR CALENDAR

May 8, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on Commerce and
Consumer Affairs to which was referred SB 4,**

**AN ACT relative to the group and individual health
insurance market. Having considered the same, report
the same with the recommendation that the bill OUGHT
TO PASS.**

Rep. Edward Butler

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Commerce and Consumer Affairs
Bill Number:	SB 4
Title:	relative to the group and individual health insurance market.
Date:	May 8, 2019
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

You may remember the language in this bill. It is very similar to HB 233, which the House passed last month. The prime sponsor of SB 4 had the same idea and this bill carries much the same language as that in HB 233. Both bills ensconce the basic provisions of the Affordable Care Act (ACA) in state law. They include provisions addressing Essential Health Benefits; guaranteed issue and coverage no matter the pre-existing condition; geographic rating protections and premium differential protections for age among other parameters of the ACA. Included within such coverage is mental health and substance abuse disorder services. However, SB 4 is more robust than HB 233 in a couple of ways. It clarifies that carriers shall not establish any annual or lifetime caps and it includes a nondiscrimination clause. Though the provisions of the ACA are still in place in the U.S., this bill will provide the 'backstop' and security of the tenets of the ACA for the citizens of NH, as the difficult and volatile issue of health care insurance roils through the federal political landscape. This also will provide a stable environment for our insurers, to know what they can expect and what our legislative intent is, even if pieces of the ACA fall away.

Vote 11-8.

Rep. Edward Butler
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Commerce and Consumer Affairs

SB 4, relative to the group and individual health insurance market. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Edward Butler for the **Majority** of Commerce and Consumer Affairs. You may remember the language in this bill. It is very similar to HB 233, which the House passed last month. The prime sponsor of SB 4 had the same idea and this bill carries much the same language as that in HB 233. Both bills ensconce the basic provisions of the Affordable Care Act (ACA) in state law. They include provisions addressing Essential Health Benefits; guaranteed issue and coverage no matter the pre-existing condition; geographic rating protections and premium differential protections for age among other parameters of the ACA. Included within such coverage is mental health and substance abuse disorder services. However, SB 4 is more robust than HB 233 in a couple of ways. It clarifies that carriers shall not establish any annual or lifetime caps and it includes a nondiscrimination clause. Though the provisions of the ACA are still in place in the U.S., this bill will provide the 'backstop' and security of the tenets of the ACA for the citizens of NH, as the difficult and volatile issue of health care insurance roils through the federal political landscape. This also will provide a stable environment for our insurers, to know what they can expect and what our legislative intent is, even if pieces of the ACA fall away. **Vote 11-8.**

Original: House Clerk

Cc: Committee Bill File

SB4 – OTP

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Chairman Butler

REGULAR CALENDAR

May 8, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Commerce and Consumer Affairs to which was referred SB 4,

AN ACT relative to the group and individual health insurance market. Having considered the same, and being unable to agree with the Majority, report with the following resolution: **RESOLVED**, that it is **INEXPEDIENT TO LEGISLATE**.

Rep. John Hunt

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Commerce and Consumer Affairs
Bill Number:	SB 4
Title:	relative to the group and individual health insurance market.
Date:	May 8, 2019
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill is very similar to HB 233 setting a dangerous precedent regardless of anyone's support for or against Obama Care/Affordable Care Act. Currently this bill is also unnecessary and harmful to the individual (non-group) health insurance market. If for some obscure reason the federal law was overturned or repealed, then NH would absolutely have to revisit this statute anyway and, even worse for the individual market, we would have to reenact what this bill repeals just to ensure that we would have some insurance companies willing to cover individuals.

Rep. John Hunt
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Commerce and Consumer Affairs

SB 4, relative to the group and individual health insurance market. **INEXPEDIENT TO LEGISLATE.**

Rep. John Hunt for the **Minority** of Commerce and Consumer Affairs. This bill is very similar to HB 233 setting a dangerous precedent regardless of anyone's support for or against Obama Care/Affordable Care Act. Currently this bill is also unnecessary and harmful to the individual (non-group) health insurance market. If for some obscure reason the federal law was overturned or repealed, then NH would absolutely have to revisit this statute anyway and, even worse for the individual market, we would have to reenact what this bill repeals just to ensure that we would have some insurance companies willing to cover individuals.

Original: House Clerk
Cc: Committee Bill File

SB 4

Minority Report ITL

Rep. John Hunt

This bill is very similar to HB 233 ^{no!} and just as inappropriate, setting a very dangerous precedent regardless of anyone's support for or against Obama Care/Affordable Care Act. Currently this bill is also unnecessary and actually harmful to the individual (non-group) health insurance market. If for some obscure reason the federal law was overturned or repealed, then NH would absolutely have to revisit this statute anyway and, even worse for the individual market, we would have to reenact what this bill repeals just to ensure that we would have some insurance companies willing to cover individuals.

OK
SUB

~~Abandoning our current law relating to health insurance mandates in favor in favor of "Essential Health Benefits" would deprive New Hampshire citizens of the protections and benefits that the state had prior to the adoption of the federal law. New Hampshire was one of only 7 states that had already implemented all the requirements of the Affordable Care Act, but it also had protections for the individual non-group market that were essential to keep this segment of the insurance market viable. The new language being added by this bill would be devastating to the individual market and would ensure that it would fail. The minority voted ITL on HB 233 and again on this bill.~~

SB 4

Minority Report ITL

Rep. John Hunt

This bill is very similar to HB 233 setting a dangerous precedent regardless of anyone's support for or against Obama Care/Affordable Care Act. Currently this bill is also unnecessary and harmful to the individual (non-group) health insurance market. If for some obscure reason the federal law was overturned or repealed, then NH would absolutely have to revisit this statute anyway and, even worse for the individual market, we would have to reenact what this bill repeals just to ensure that we would have some insurance companies willing to cover individuals.

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on SB 4

BILL TITLE: relative to the group and individual health insurance market.

DATE: April 25, 2019

LOB ROOM: 302

MOTIONS: OUGHT TO PASS

Moved by Rep. Butler

Seconded by Rep. Abel

Vote: 11-8

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Rebecca McBeath, Clerk



2019 SESSION

Commerce and Consumer Affairs

Bill #: SB 4 Motion: OTP AM #: _____ Exec Session Date: 4-25-19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Butler, Edward A. Chairman	✓		
Williams, Kermit R. Vice Chairman	✓		
Gidge, Kenneth N.			
Abel, Richard M.	✓		
McBeath, Rebecca Susan Clerk	✓		
Bartlett, Christy D.	✓		
Herbert, Christopher J.	✓		
Van Houten, Constance	✓		
Fargo, Kristina M.	✓		
Indruk, Greg L. J. QUERY	✓		
Muscatel, Garrett D.	✓		
Weston, Joyce	✓		
Hunt, John B.		✓	
Sanborn, Laurie J. D. FIELDS		✓	
Osborne, Jason M.		✓	
Costable, Michael		✓	
Plumer, John R.		✓	
Barnes, Arthur E.		✓	
Potucek, John M.		✓	
Warden, Mark		✓	
TOTAL VOTE:	11	8	

Sub-Committee Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on SB 4

BILL TITLE: relative to the group and individual health insurance market.

DATE: April 25, 2019

Subcommittee Members: Reps. Butler, Williams, McBeath, Abel, Herbert, Bartlett, Van Houten, Fargo, Muscatel, Weston, Hunt, Plumer, Barnes and Potucek

Comments and Recommendations: ACA backstop bill. Chairman Butler requests no changes; OTP vote.

MOTIONS: OUGHT TO PASS

Moved by Rep. Rep. Butler
(count)

Seconded by Rep. Rep. Williams

Vote: 10-4 (hand

Respectfully submitted,

Rep. Rebecca McBeath
Subcommittee Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on SB 4

BILL TITLE: relative to the group and individual health insurance market.

DATE: 4-25-19

Subcommittee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costable, Plumer, Barnes, Potucek and Warden

Comments and Recommendations:

ACA Backstopbill -
Chew Butler requests No changes
OTP vote

MOTIONS: OTP OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. Butler Seconded by Rep. Williams AM Vote: hand count 10-4

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

Respectfully submitted,

Rep. Barnes
Subcommittee Chairman/Clerk

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON SB 4

BILL TITLE: relative to the group and individual health insurance market.

DATE: April 23, 2019

LOB ROOM: 302

Time Public Hearing Called to Order: 1:50 pm

Time Adjourned: 2:28 pm

Committee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costable, Plumer, Barnes, Potucek and Warden

Bill Sponsors:

Sen. Feltes
Sen. D'Allesandro
Sen. Hennessey
Sen. Morgan
Sen. Soucy
Rep. McMahan

Sen. Cavanaugh
Sen. Dietsch
Sen. Kahn
Sen. Rosenwald
Sen. Watters

Sen. Chandley
Sen. Fuller Clark
Sen. Levesque
Sen. Sherman
Rep. Butler

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Sen. Dan Feltes, prime sponsor - Right now preexisting conditions are covered Mental health and prenatal health- that what is at stake if the Affordable Care Act is knocked out by any one of a number of issues included the US Supreme Court; this bill will protect the health care of Granite Staters. I know that Rep Butler has a similar piece of legislation – let me point out where it is different.

A: Starting line 2. We've got essential health benefits to current law marked at 2018, so no back sliding in any health benefits – opioid crisis, maternal health – theses are essential benefits that I don't think were tagged in the House bill.

A. Page 3 line 30-33 the Senate bill has not life, time or injury as permitted by Federal law Jan 1, 2019

B. Page 4, line 14-18. This is what is referred to as the non-discrimination provision – discrimination within the large, small and individual markets on sex, sexual id, martial status, national origin, race, (this non-discrimination provisions applies to programs or activities)

I know that some folks may advocate against some of the categories in this provision, but this is simple, and that Federal law has this non-discrimination provision in receiving federal money. Strongly encourage do not weaken the non-discrimination provision of this bill.

Rep. David Meuse - Supports. My background is in the health insurance business. By not enacting a bill like SB 4 is opening up the industry to offer products that don't cover essential benefits. Plans that pull the coverage out from

under individuals.

Jennifer Patterson, NH Insurance Department - No position, information only. The version passed by the Senate does address most of our concerns. The carriers will suggest language regarding the non-discrimination section of the bill, and the Dept. does think that language is more in line with other such provisions in NH.

Rep. Kermit Williams - What are the substantive differences between the House bill and Senate bill in this issue?

A: Sen. Feltes has outlined them fairly well, lifetime limits is a difference, the non-discrimination provision is new, and I will look at the life time limits.

Isaac Grimm, Rights for Democracy NH - Work with members around the state about issues of lack of health care, wage issues around the state – Engaged in a community service project last year, health care was the top issue (along with opioid issue) especially maintaining the protections for preexisting conditions. Shares a story about a snowboard accident that he had without insurance

Q: Rep. Michael Costable - You're advocating to be here are you paid, if so you should be wearing a lobbyist badge?

A: Yes my lobbyist badge is in my bag.

* **Holly Stevens, New Futures** - Supports. New Future agrees with the addition of Lifetime limits. No position on non-discrimination provision
The other provision that it new is tying the covered conditions be tied to the present year plan – we support that.

Zandra Rice-Hawking, Granite State Progress - Supports. We hear every day from family's that know the pre-existing condition provision gives them the security to go about their days without the worry about loss of health insurance coverage. Diabetes, genetic disorders, hemophilia, these types of conditions need to be covered no matter no what happens at the federal level. I will email my testimony to all Members. The Keiser Family Foundation estimates that 201,000 adults individuals in NH – 24% of NH population has a pre-existing condition.

Heidi Kroll, NHID - No position on the bill, but focused on one section. Want to clarify that biological sex is the sex of the individual is the procedures for the sex they identify with, it they had not had surgery to correct physical.

Paula Rogers, Anthem Insurance - We were ask last week what we thought about language. Anthem is already required abide by section of 1557 at the federal level. We are not fighting against the Senate language. An ASO program, because pharmacy benefits, must comply with 1557. Page 4 lines 14- 18 is awkward – what Heidi passed out – reads more like an insurance policy – uses the insurance terms – we feel that this language is more appropriate than the language in SB4. If someone can point out to me

Respectfully submitted:

A handwritten signature in blue ink, appearing to read 'R. McBeath', written in a cursive style.

Rebecca McBeath, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON SB 4

BILL TITLE: relative to the group and individual health insurance market.

DATE: 4-23-19

ROOM: 302

Time Public Hearing Called to Order: 1:50 pm

Time Adjourned: 2:28 pm

(please circle if present)

Committee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costabile, Plumer, Barnes, Potucek and Warden

Bill Sponsors:

Sen. Feltes
Sen. D'Allesandro
Sen. Hennessey
Sen. Morgan
Sen. Soucy
Rep. McMahon

Sen. Cavanaugh
Sen. Dietsch
Sen. Kahn
Sen. Rosenwald
Sen. Watters

Sen. Chandley
Sen. Fuller Clark
Sen. Levesque
Sen. Sherman
Rep. Butler

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

1. Sen Dan Feltes, Prime Sponsor
- *2. Rep. David Marse
3. Jennifer Patterson, NHI Dept.
4. Isaac Grimm, Rights & Democracy NH
- *5. Holly Stevens, New Futures
6. Zandra Rice-Hankins, Granite State Progress
- *7. Heidi Kroll, NHIP
8. Paula Rogers, Anthem

Chair calls the hearing on SB4 to order 1:50 pm

1. First Witness Sen. Dan Feltes, Prime Sponsor

Right now preexisting conditions are covered

Mental Health

Prenatal health

That what is at stake if the Affordable Care Act is knocked out by any one a number of issues included the US Supreme Court – this bill will protect the healthcare of Granite Staters.

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Strongly encourage do not weaken the non-discrimination provision of this bill.

Rep David Meuse, Portsmouth NH Rep

Supports this bill

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By not enacting a bill like SB 4 is opening up the industry to offer products that don't cover essential benefits. Plans that pull the coverage out from under individuals.

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5. * Holly Stevens, New Futures

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insurance policy – uses the insurance terms – we feel that this language is
more appropriate than the language in SB4 – If someone can point out to me

Hearing Closed at 2:29 pm

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # SB 4 Date 4-23-19
 Committee Commerce & CA

** Please Print All Information **

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Sen Cindy Rosenwald			SD #13	<input checked="" type="checkbox"/>	
Sen Melonie Levesque			SD #12	<input checked="" type="checkbox"/>	
Sen Jeanne Dietsch			SD # 9	<input checked="" type="checkbox"/>	
Sen Shannon Chandler			SD #11	<input checked="" type="checkbox"/>	
Maureen Ellermann				<input checked="" type="checkbox"/>	
Rep Dick Hinch		House Republican office			<input checked="" type="checkbox"/>
Sen Jon Morgan			SD23	<input checked="" type="checkbox"/>	
Sen Tom Sherman			SD24	<input checked="" type="checkbox"/>	
Sen Jay Kahn			SD10	<input checked="" type="checkbox"/>	
Sen Donna Soucy			SD #18	<input checked="" type="checkbox"/>	
Faith Sillars - Pittsfield				<input checked="" type="checkbox"/>	
Debra Seiken	Portsmouth NH			<input checked="" type="checkbox"/>	
Norma Mackinley-Smith	on behalf of Ken Norton		DAMI NH	<input checked="" type="checkbox"/>	
Kayla Montgomery			Planned Parenthood	<input checked="" type="checkbox"/>	
Jennifer Frizzell			NH Women's Foundation	<input checked="" type="checkbox"/>	
Claudia Isiel		Acworth NH		<input checked="" type="checkbox"/>	
Isaac Grimm	Dover, NH		Rights & Democracy NH	<input checked="" type="checkbox"/>	
William Johnson	Concord NH		Rights & Democracy Kent St.	<input checked="" type="checkbox"/>	
Melissa Sandoval	Dover, NH	2072727795	Rights & Democracy	<input checked="" type="checkbox"/>	
Courtney Tanner	Dartmouth-Hitchcock			<input checked="" type="checkbox"/>	

Testimony

My name is Rep. David Meuse and I represent Portsmouth Ward 5.

I'm here today not only to speak in support of this bill, but also to share some of the things I saw and learned as a former partner in one of the largest employee benefits administration firms in the world over my 25 year career.

Something that's easy to forget is what the insurance market looked like before the ACA. As is the case now, premiums and out-of-pocket costs were making coverage unaffordable for many. On top of that, we had a recession that was putting cost pressure on employers to contain employee health care costs. At the individual level, this prompted many people to simply drop their coverage. Because refusing to treat people without insurance who show up in emergency rooms is against the law, the cost to treat them was shifted to people with insurance. At the time, cost-shifting was one of the major factors in skyrocketing premium costs.

One of the responses by employers and the insurance industry were so-called "mini-med" plans. On the plus side, this type of health insurance was affordable even for many low wage workers. It was also affordable for contractors, entrepreneurs, and others who needed to rely on the individual market because they weren't eligible to buy health insurance from an employer. Often the coverage looked good. The premiums were affordable, you paid a small copayment to see a doctor or to fill a prescription, and there were no obvious exclusions for things like hospitalization or maternity care.

These plans looked especially good if you didn't understand that they also came with something called an "annual plan maximum". Instead of outright excluding things like hospitalization and maternity services—which would have caused a huge ruckus—these plans would simply limit the total amount of expenses the plan would pay to \$15,000, \$10,000, or even as low as \$2,000. Once you had enough expenses to hit the limit, you were on your own.

I remember listening to a call center training tape during that period. There was a woman on the phone in tears because she was sitting in a hospital billing office with her husband where she was finding out that only a third of her maternity bill was covered by her insurance. She didn't know that her plan had an annual maximum. At the time we all agreed that the rep did a good job handling the call, but it was an eye opener to someone like me who never really considered the human toll of plans like these—until I heard that voice.

Before the ACA, it was common for big companies like WalMart and McDonalds to offer mini-med plans to their part-time employees. These plans were also offered on the individual market by insurers like Cigna and the AARP. They were insidious that they were cheap and provided the illusion of coverage—and illusion that was

easy to maintain as long as you never had a serious medical issue.

This is why one of the most important things that SB4 is that it in addition to protecting the 10 essential benefits it would also keep plans with annual and lifetime maximums from making a comeback.

Something else to be aware of is that plans like this would represent the continuation of a disturbing trend that's been going on for 3 decades—the strip mining of health insurance coverage.

When I started working for Hewitt Associates in 1987, many of our clients were transitioning from first-dollar medical coverage to cafeteria plans offering multiple options for medical coverage. In the beginning, the option in a cafeteria plan representing the lowest cost to the employer was typically offered at no cost to the employee. If you wanted more comprehensive coverage, you kicked in a small amount from your paycheck. Over time, all of the options required employee contributions. At the same time, many plans added small copayments when you saw a doctor or got a prescription. As costs continued to rise, so employer and employee contributions rose to what many thought would be the breaking point. So to keep premiums from rising as quickly, the next step was to offer plans with higher and higher deductibles.

Today we're in a situation where both premiums and out-of-pocket costs are increasing personal bankruptcies and prompting an increasing number of people to go uninsured.

But the answer isn't to allow employers and the insurance industry to whittle away at the coverage that offers the only protection many people have from financial disaster. Cheap insurance that doesn't offer real protection against the devastating cost of an illness or injury isn't insurance—it's a cruel illusion.

That's why I urge members of the committee in the strongest possible terms to pass SB4 and make sure that the 10 essential benefits remain part of any health insurance policy sold in this state no matter what happens in Washington. Thank you.

April 23, 2019

The Honorable Edward Butler, Chair
House Commerce and Consumer Affairs Committee
Legislative Office Building Room 302
Concord, NH 03301

Re: New Futures' support of SB 4

Dear Chairman Butler and Members of the Committee:

New Futures appreciates the opportunity to testify in support of SB 4, which would codify certain protections of the Affordable Care Act (ACA) into New Hampshire law. New Futures is a nonpartisan, nonprofit organization that advocates, educates and collaborates to improve the health and wellness of all New Hampshire residents. In this role, we work extensively with policy makers, health care providers and families to increase access to quality, affordable health care throughout the Granite State.

Prior to the ACA, many insurance plans did not cover mental health and substance use disorder services. At the time, the Mental Health Parity and Addiction Act of 1996 (Parity Act) mandated that any mental health and substance use disorder benefits on the market be in parity with physical health care benefits. However, the Act did not require that insurers cover these benefits. In fact, it had exemptions for plans that did not provide mental health benefits, for small employers, and for businesses that could demonstrate an increase in premiums due to the parity.

If the ACA were to be repealed or found unconstitutional, insurance plans would once again not be required to cover the essential health benefits, including mental health and substance use disorder services. They could stop providing behavioral health benefits to avoid complying with the Parity Act. Given New Hampshire's current mental health and substance use disorder crises, this could have devastating consequences for our state. The investments that the state and behavioral health treatment providers have made will be for naught, if insurance carries no longer cover mental health and substance use disorder services. Therefore, we must codify the essential health benefits in state law so that insurance plans continue to cover these crucial benefits and be subject to The Mental Health Parity and Addiction Act of 1996.

Additionally, prior to the ACA, health insurers were permitted to deny coverage, charge higher premiums, or impose waiting periods before treatment for pre-existing conditions were covered. Congress surveyed four of the large insurers between 2007 and 2009. They found that over 400 medical conditions or diagnoses were used to justify a denial of coverage. These diagnoses included cancer, diabetes, hepatitis, mental health disorders, and pregnancy among others. All told, these four companies denied health coverage to 651,000 people because of pre-existing conditions.¹ Even when coverage was provided, it would often be offered at much higher premiums. With the prohibition on denying coverage to individuals with pre-existing conditions and the rating requirements of the ACA, these practices ended.

¹ Pre existing conditions before the Affordable Care Act, Meredith Miller, published June 14, 2018.

Over the past several months, the New Hampshire Insurance Department (NHID) has convened a series of stakeholder meetings regarding Association Health Plans (AHP). During these sessions, it became clear that nearly all stakeholders in attendance believe that coverage of the EHB and pre-existing conditions are essential. The recent changes at the federal level around AHP would allow states much flexibility with these plans. There is no requirement for them to cover the EHB or pre-existing conditions. However, stakeholders believe strongly that for AHP to move forward in New Hampshire under the new federal regulations, they would need to include those provisions. This demonstrates that these protections are extremely important to New Hampshire residents.

At this time, the atmosphere in Washington, D.C. is highly volatile, and there is much uncertainty from day to day regarding the future of the ACA. Further, the lawsuit filed in the Northern District of Texas challenging constitutionality provides even more uncertainty regarding the sustainability of the ACA at this time.

If the ACA was standing on solid ground, there would be no need for SB 4. However, because that is not the case, New Hampshire's legislators have a duty to make sure the health care protections afforded Granite Staters through the health care law continue if action at the federal level jeopardizes them. These are protections that New Hampshire's residents both want and need. If the state is to continue to beat back the ongoing mental health and substance misuse crisis, it is crucial that people have access to affordable services which requires insurance coverage with reasonable premiums. For these reasons, New Futures strongly supports SB 4 and urges the committee vote ought to pass.

Please do not hesitate to contact me if you have any questions.

Respectfully submitted,



Holly A. Stevens, Esq.
Health Policy Coordinator

Bill as
Introduced

SB 4 - AS AMENDED BY THE SENATE

03/27/2019 1176s

2019 SESSION

19-1101
01/04

SENATE BILL 4

AN ACT relative to the group and individual health insurance market.

SPONSORS: Sen. Feltes, Dist 15; Sen. Cavanaugh, Dist 16; Sen. Chandley, Dist 11; Sen. D'Allesandro, Dist 20; Sen. Dietsch, Dist 9; Sen. Fuller Clark, Dist 21; Sen. Hennessey, Dist 5; Sen. Kahn, Dist 10; Sen. Levesque, Dist 12; Sen. Morgan, Dist 23; Sen. Rosenwald, Dist 13; Sen. Sherman, Dist 24; Sen. Soucy, Dist 18; Sen. Watters, Dist 4; Rep. Butler, Carr. 7; Rep. McMahon, Rock. 7

COMMITTEE: Health and Human Services

ANALYSIS

This bill establishes the provisions of the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended in statute.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to the group and individual health insurance market.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraphs; Health Coverage; Definitions. Amend RSA 420-G:2 by inserting after
2 paragraph VI the following new paragraphs:

3 VI-a. "Employee" means "employee" as defined in the Employee Retirement Income
4 Security Act of 1974, 29 U.S.C. section 1002(6).

5 VI-b. "Essential health benefits" means the categories of coverage identified in 42 U.S.C.
6 section 18022(b)(1) and as further defined and implemented by the Secretary of the Department of
7 Health and Human Services from time to time.

8 2 Health Coverage; Definitions; Small Employer. Amend RSA 420-G:2, XVI(a) to read as
9 follows:

10 XVI.(a) "Small employer" means a business or organization which employed on average, one
11 and up to 50 employees[~~including owners and self-employed persons,~~] on business days during the
12 previous calendar year. A small employer is subject to this chapter whether or not it becomes part
13 of an association, multi-employer plan, trust, or any other entity cited in RSA 420-G:3 provided it
14 meets this definition.

15 3 Health Benefits; Premium Rates. RSA 420-G:4, I(d) is repealed and reenacted to read as
16 follows:

17 (d)(1) In establishing the premium charged, health carriers providing coverage to
18 individuals and small employers shall vary the premium rate with respect to the particular plan or
19 coverage involved only by:

20 (A) Whether the plan or coverage covers an individual or family;

21 (B) Geographic rating area, except that the state shall constitute a single
22 geographic rating area;

23 (C) Age, except that the maximum premium differential for age as determined
24 by ratio shall be 3 to 1 for adults; and

25 (D) Tobacco use, except that the maximum differential rate due to tobacco use
26 shall be 1.5 to 1.

27 (2) With respect to family coverage under an individual or small group health
28 insurance policy, the rating variations permitted under subparagraphs (1)(A) and (D) shall be
29 applied based on the portion of the premium that is attributable to each family member covered
30 under the plan.

31 (3) Carriers shall adjust each health coverage plan or premium rate for age, based

1 on the portion of the premium that is attributable to each family member covered under the plan or
2 certificate, using the uniform age rating factors established by the commissioner pursuant to RSA
3 420-G:14, I(a)(2).

4 4 New Section; Essential Health Benefits. Amend RSA 420-G by inserting after section 4-c the
5 following new section:

6 420-G:4-d Essential Health Benefits.

7 I. All health coverage offered by health carriers to individuals or small employers shall
8 include coverage for essential health benefits and provide essential health benefits in a plan
9 substantially equivalent to New Hampshire's Essential Health Benefit Benchmark Plan in effect for
10 the plan year 2019.

11 II. If the federal government ceases to define essential health benefits, the commissioner
12 shall define essential health benefits for New Hampshire by rulemaking pursuant to RSA 541-A.
13 The New Hampshire essential health benefits shall include at least the following general categories
14 and the items and services covered within the categories:

15 (a) Ambulatory patient services.

16 (b) Emergency services.

17 (c) Hospitalization.

18 (d) Maternity and newborn care.

19 (e) Mental health and substance use disorder services, including behavioral health
20 treatment.

21 (f) Prescription drugs.

22 (g) Rehabilitative and habilitative services and devices.

23 (h) Laboratory services.

24 (i) Preventive and wellness services and chronic disease management.

25 (j) Pediatric services, including oral and vision care; provided, that health coverage that
26 does not specifically include such pediatric services shall be deemed to have offered the essential
27 health benefit under this subparagraph if the health carrier has obtained reasonable assurance that
28 such pediatric services are provided to the purchaser of the health coverage.

29 III. In defining the essential health benefits under paragraph II, the commissioner shall:

30 (a) Ensure that such essential health benefit reflects an appropriate balance among the
31 categories described in such subparagraph, so that benefits are not unduly weighted toward any
32 category;

33 (b) Not define essential health benefits in a manner which would allow carriers to make
34 coverage decisions, determine reimbursement rates, establish incentive programs, or design benefits
35 in ways that discriminate against individuals because of their age, disability, or expected length of
36 life;

37 (c) Consider the health care needs of diverse segments of the population, including
38 women, children, persons with disabilities, and other groups;

1 (d) Ensure that health benefits established as essential are not subject to denial to
2 individuals against their wishes on the basis of the individuals' age or expected length of life or of
3 the individuals' present or predicted disability, degree of medical dependency, or quality of life;

4 (e) Ensure that a health plan shall not be treated as providing coverage for the essential
5 health benefits unless the plan provides that:

6 (1) Coverage for emergency department services shall be provided without imposing
7 any requirement under the plan for prior authorization of services or any limitation on coverage
8 where the provider of services does not have a contractual relationship with the plan for the
9 provision of services which is more restrictive than the requirements or limitations that apply to
10 emergency department services received from providers who do have such a contractual
11 relationship with the plan; and

12 (2) If such services are provided out-of-network, the cost-sharing requirement, such
13 as a copayment amount or coinsurance rate is the same requirement which would apply if such
14 services were provided in-network; and

15 (f) Ensure that the New Hampshire essential benefits are at least actuarially equivalent
16 to the essential health benefits previously established by the federal government.

17 (g) Ensure essential health benefits are provided in a plan substantially equivalent to
18 New Hampshire's Essential Health Benefit Benchmark Plan in effect for plan year 2019.

19 5 Health Coverage; Medical Underwriting. Amend RSA 420-G:5, I and II to read as follows:

20 I. Health carriers providing health coverage [~~for individuals may~~] **shall not** perform
21 medical underwriting, including the use of health statements or screenings or the use of prior
22 claims history[~~; to the extent necessary to establish or modify premium rates as provided in RSA~~
23 ~~420-G:4~~].

24 II. [~~Health carriers providing health coverage for individuals may refuse to write or issue~~
25 ~~coverage to an individual because of his or her health status.~~] Regardless of claim experience,
26 health status, or medical history, health carriers providing health coverage for *individual or* small
27 employers shall not refuse to write or issue any of their available coverages or health benefit plans
28 to any *individual or* small employer group that elects to be covered under that plan and agrees to
29 make premium payments and meet the other requirements of the plan.

30 *II-a. Health carriers shall not establish any annual or lifetime limits on the dollar*
31 *value of essential health benefits for any individual, except annual or lifetime limits may*
32 *be imposed on specific covered benefits that are not essential health benefits to the extent*
33 *permitted under federal law as of January 1, 2019.*

34 6 Health Coverage; Guaranteed Issue. Amend RSA 420-G:6, III to read as follows:

35 III. Health carriers shall actively market, issue, and renew all of the health coverages they
36 sell in the *individual and* small employer market to all *individuals and* small employers *in that*
37 *market. Health carriers offering health coverage to small employers shall permit small*
38 *employers to purchase health coverage at any point during the year, with the small*

1 *employer's health coverage consisting of the 12-month period beginning with the small*
2 *employer's effective date of coverage.*

3 *III-a. A health carrier shall not rescind health coverage issued to an individual or*
4 *with respect to an individual covered under health coverage issued to a small or large*
5 *employer, including a group to which the individual belongs or family coverage in which*
6 *the individual is included, after the individual is covered under the plan, unless:*

7 *(a) The individual, or a person seeking coverage on behalf of the individual,*
8 *performs an act, practice, or omission that constitutes fraud; or*

9 *(b) The individual makes an intentional misrepresentation of material fact, as*
10 *prohibited by the terms of the plan or coverage.*

11 *III-b. For the purposes of subparagraph III-a(a), a person seeking coverage on*
12 *behalf of an individual shall not include a producer, or an employee or authorized*
13 *representative of the health carrier.*

14 *III-c. A health carrier in the individual, small group, or large group market shall*
15 *provide individuals equal access to all health programs, coverage, or activities without*
16 *discrimination on the basis of sex, sexual orientation, gender identity, race, creed, color,*
17 *marital status, familial status, physical or mental disability, or national origin, as those*
18 *terms are defined under RSA 354-A.*

19 7 Health Coverage; Guaranteed Issue. Amend RSA 420-G:6, V(d)-(g) and paragraph V-a to
20 read as follows:

21 *(d) Failure of an employer sponsoring group coverage to meet the minimum*
22 *employee participation number or percentage requirement of the health coverage.*

23 *(e) ~~[The small employer is no longer actively engaged in the business that it was~~*
24 *~~engaged in on the effective date of the health coverage.~~*

25 *(~~f~~) The employer medically underwrites or otherwise violates a provision of this*
26 *chapter.*

27 *(~~g~~) (f) The health carrier is ceasing to offer health coverage in such market, in*
28 *accordance with paragraph VII.*

29 V-a. Health carriers shall not underwrite insureds at time of renewal [~~unless an insured~~
30 ~~has applied for an increase in his or her coverage~~].

31 8 Health Coverage; Preexisting Conditions. RSA 420-G:7 is repealed and reenacted to read as
32 follows:

33 420-G:7 Preexisting Condition Exclusion Periods. A health carrier shall not impose any
34 preexisting condition exclusion with respect to coverage in the individual, small group, or large
35 group market.

36 9 Health Coverage; Open Enrollment. RSA 420-G:8 is repealed and reenacted to read as
37 follows:

38 420-G:8 Open Enrollment.

1 I. Each small employer group shall have an annual employee open enrollment period 60
2 days in length, occurring prior to the small employer group's anniversary date. During open
3 enrollment, employees or eligible dependents may apply to the small employer for health coverage
4 or make a change in their membership status becoming effective upon the small employer group's
5 anniversary date, subject to providing the health carrier 30-days notice.

6 (a) A health carrier shall not refuse any small employer employees or eligible
7 dependents applying for health coverage during the open enrollment period.

8 (b) Employees or eligible dependents coming on at the time of an open enrollment
9 period shall have the same premiums as the rest of the small employer group shall have upon the
10 new or renewal effective date.

11 II. A small employer employee who has met any employer imposed waiting period and is
12 otherwise eligible for health coverage, who declines a small employer's health coverage plan during
13 the initial offering or subsequent open enrollment period, shall be a late enrollee and shall not be
14 allowed on the plan until the next open enrollment period.

15 III. A large employer employee, who has met any employer imposed waiting period and is
16 otherwise eligible for health coverage, may enroll within 31 days of becoming eligible and shall not
17 be required to submit evidence of insurability based on medical conditions. If a person does not
18 enroll at this time, that person is a late enrollee. Each large employer group shall have an open
19 enrollment period during which late enrollees may enroll and shall not be required to submit
20 evidence of insurability based on medical conditions.

21 IV. Paragraphs II and III notwithstanding, an eligible employee or eligible dependent shall
22 not be considered a late enrollee if:

23 (a) The person was covered under public or private health coverage at the time the
24 person was able to enroll; and

25 (1) Has lost public or private health coverage as a result of termination of
26 employment or eligibility, the termination of the other plan's coverage, death of a spouse, or divorce;
27 and

28 (2) Requests enrollment within 30 days after termination of such health coverage;
29 or

30 (b) Is employed by an employer that offers multiple health coverages and the person
31 elects a different plan during an open enrollment period; or

32 (c) Was ordered by a court to provide health coverage for an ex-spouse or a minor child
33 under a covered employee's plan and the request for enrollment is made within 30 days after
34 issuance of such court order.

35 V.(a) If individual coverage offered by a health carrier or a large or small employer group's
36 health coverage plan offers dependent coverage and the individual is enrolled in such coverage or
37 the employee is enrolled or has met any applicable waiting period and is eligible to be enrolled, but
38 for a failure to do so during a previous open enrollment period, a person who becomes a dependent

1 of the individual or employee through marriage, birth, adoption or placement for adoption, and the
2 employee if not otherwise enrolled, shall be provided with a special enrollment period.

3 (b) If an individual has minimum essential coverage through individual coverage
4 offered by a health carrier or as an employee through a large or small employer group's health
5 coverage plan, and the individual loses such coverage for any reason other than failure to pay
6 premiums or a basis on which rescission is permitted pursuant to RSA 420-G:6, IV, the individual
7 shall be provided with a special open enrollment period under any other individual health coverage
8 or any large or small employer group health coverage plan for which the individual becomes
9 eligible.

10 (c) The special enrollment period shall be at least 60 days in length and shall begin on
11 the later of:

12 (1) The date dependent health coverage is made available; or

13 (2) The date of the marriage, birth, adoption, placement for adoption, or loss of
14 minimum essential coverage, as the case may be.

15 (d) If the person seeks enrollment during such special enrollment period, the health
16 coverage shall become effective:

17 (1) In the case of marriage or loss of minimum essential coverage, on or before the
18 first day of the first month following the completed request for enrollment;

19 (2) In the case of birth, as of the date of birth; or

20 (3) In the case of adoption or placement for adoption, the date of such adoption or
21 placement for adoption.

22 10. New Paragraphs; Health Coverage; Participation Requirements. Amend RSA 420-G:9 by
23 inserting after paragraph IV the following new paragraphs:

24 V. For the purpose of calculating whether or not a small employer group's enrollment meets
25 a carrier's minimum participation requirements:

26 (a) Any full-time or part-time employee who is covered as a dependent on another
27 person's health coverage or is enrolled in a governmental plan such as Medicare, Medicaid, or
28 TRICARE shall be excluded from the count.

29 (b) Any full-time or part-time employee who has been found eligible for a premium tax
30 credit and is enrolled in a qualified health plan (QHP) purchased through an exchange shall be
31 excluded from the count.

32 (c) The total number of full-time employees and part-time employees who are otherwise
33 eligible for health coverage shall be counted.

34 VI. The requirements under this section shall be the only participation requirements.
35 Minimum employer contributions, or other criteria, shall not be permitted.

36 11 Health Coverage; Rulemaking. RSA 420-G:14, I is repealed and reenacted to read as
37 follows:

38 I.(a) The commissioner may adopt rules, under RSA 541-A, relative to:

SB 4 - AS AMENDED BY THE SENATE

- Page 7 -

1 (1) Uniform age rating levels that are consistent with 45 C.F.R. 147.102.

2 (2) Special enrollment periods designed to allow employees to purchase individual
3 coverage on the exchange during their employer's open enrollment period, even if the employer's
4 open enrollment period does not coincide with the open enrollment period in the individual market.

5 (3) Essential health benefits, in accordance with RSA 420-G:4-d, II and III.

6 (b) The commissioner may adopt further rules, pursuant to RSA 541-A, necessary to the
7 proper administration of this chapter.

8 12 Standards for Accident and Health Insurance; Preexisting Conditions. RSA 415-A:5, III is
9 repealed and reenacted to read as follows:

10 III. Health carriers issuing policies subject to RSA 420-G shall not impose any preexisting
11 condition exclusion that is inconsistent with that chapter.

12 13 Health Coverage; Applicability and Scope of Chapter. Amend RSA 420-G:3, I(b) to read as
13 follows:

14 (b) This chapter shall not apply to student major medical expense coverage, except
15 student major medical expense coverage shall be given credit and shall count as credit for previous
16 health coverage as defined in RSA 420-G:7, [III] II.

17 14 Repeal. RSA 420-G:4-c, II, relative to a health coverage tax incentive plan, is repealed.

18 15 Effective Date. This act shall take effect 60 days after its passage.